

Message Text

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ACTION NEA-10

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E.O. 11652: N/A
TAGS: EFIN, EG
SUBJECT: CHANGES TO INVESTMENT LAW -- GOE REQUEST FOR COMMENTS

REF (A) CAIRO 105 (B) CAIRO 1026

1. FOLLOWING IN INFORMAL TRANSLATION IS TEXT OF MIN ECON MEMO-RANDUM ON PROPOSED AMENDMENTS TO INVESTMENT LAW NO. 43 (REFTELS). WE UNDERSTAND MINECON EL SAYEDH WOULD WELCOME COMMENTS BY USG AGENCIES AND BUSINESS COMMUNITY ON PROPOSED CHANGES. SHOULD BE NOTED, HOWEVER, THAT GOE'S DEADLINE FOR SUBMISSION OF LEGISLATION IN THIS REGARD TO PEOPLE'S ASSEMBLY IS EARLY FEBRUARY.

2. QUOTE OUTLINE OF PROPOSED AMENDMENTS TO LAW NO. 43 OF 1974 ON FOREIGN INVESTMENT IN EGYPT.

CONCERNS EXPRESSED BY COMMENTATORS ON THE INVESTMENT LAW MAY BE DIVIDED INTO TWO GROUPS:

THOSE NECESSITATING AMENDMENTS TO EXISTING LEGISLATION AND THOSE WHICH CAN BE CURED BY ADMINISTRATIVE REGULATIONS.

APPROPRIATE ACTION IS BEING CONSIDERED FOR THE LATTER; THE PROPOSED AMENDMENTS TO THE INVESTMENT LAW MAY BE SUMMARIZED AS FOLLOWS:

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A- EXCHANGE RATE:

INVESTED CAPITAL, INCOMING OR OUTGOING, AS WELL AS DISTRIBUTIONS, WOULD BE DEALT WITH ON THE BASIS OF THE EXCHANGE RATE PREVAILING AT THE TIME OF TRANSFER. AT PRESENT, THIS WOULD MEAN THE PARALLEL MARKET RATE.

THIS WILL BE ACCOMPLISHED BY AMENDING THE RELEVANT ARTICLES OF THE LAW, INCLUDING SECTIONS 1 & 6 OF ARTICLES 2. AS FOR SECTION 7, CONCERNING LAND, IN ORDER TO REGULATE THE INCREASE IN LAND PRICES IN EGYPT, THE OFFICIAL RATE WOULD CONTINUE TO BE

APPLICABLE IN ACCORDANCE WITH LAW NO. 81 OF 1976 REGULATING POSSESSION OF REAL ESTATE BY NON-EGYPTIANS.

A MATTER FOR DISCUSSION IS THE NEED TO REVALUE INVESTED CAPITAL ALREADY BROUGHT IN AND, ACCORDINGLY, HOW TO RESTORE EQUILIBRIUM BETWEEN FOREIGN AND LOCAL PARTNERS.

B- TAX HOLIDAYS:

THE SCOPE OF THE TAX HOLIDAY IN THE LAW WOULD BE CLARIFIED ALONG THE FOLLOWING LINES:

- 1) THE TAX HOLIDAY, PROVIDED FOR BY ARTICLE 16 OF THE LAW, FOR A PERIOD OF 5 TO 8 YEARS, CONSTITUTES FULL EXEMPTION FROM ALL TAXES AND DUES (NOT PERTAINING TO SERVICES).
- 2) THIS EXEMPTION APPLIES TO THE PROJECT AND TO ITS DISTRIBUTED DIVIDENDS AND INCLUDES EXEMPTION FROM THE GENERAL TAX ON INCOME.
- 3) A MATTER FOR DISCUSSION IS THE CLARIFICATION OF PARAGRAPH 2 OF ARTICLE 16 OF THE LAW. THE INTENT IS THAT IF ANY TAXES ARE TO BE PAID TO A NON-EGYPTIAN TAX AUTHORITY ON INCOME EARNED BY A PROJECT IN EGYPT, THEY SHOULD BE PAID INSTEAD TO THE EGYPTIAN LIMITED OFFICIAL USE

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GOVERNMENT BUT ONLY TO THE EXTENT THAT SUCH NON-EGYPTIAN TAX AUTHORITY WOULD ALLOW CREDIT FOR THE EGYPTIAN TAX. THE PROVISION AS REVISED WOULD ELIMINATE ANY POSSIBILITY THAT THE INCOME WOULD BE TAXED TWICE AND WOULD RETAIN THE EXEMPTION FOR ANY AMOUNT THAT THE RATE OF THE EGYPTIAN TAX EXCEEDS THAT IMPOSED BY A NON-EGYPTIAN TAX AUTHORITY.

- 4) THE TAX HOLIDAY PROVIDED FOR IN ARTICLE 47 RELATING TO FREE ZONE PROJECTS APPLIES TO DISTRIBUTED DIVIDENDS AS WELL.

C- CUSTOMS PRIVILEGES:

ALL IMPORTED CAPITAL ASSETS OF THE PROJECT WOULD BE EXEMPTED FROM CUSTOMS DUTIES AND DUES, AS A GENERAL RULE, WITHOUT NEED FOR A PRESIDENTIAL DECREE ON THE PROPOSAL OF THE INVESTMENT AUTHORITY.

D- REPATRIATION OF CAPITAL:

RESTRICTIONS ON THE REPATRIATION OF CAPITAL WOULD BE LESSENED

BY:

1) PUTTING NO LIMITATION ON THE "VALUE" OF INVESTED CAPITAL THAT CAN BE REPATRIATED IN CASE OF A WINDING UP OR TRANSFER TO THIRD PARTIES. SECTION 3 OF ARTICLE 21 WOULD BE AMENDED TO DELETE THE REQUIREMENTS OF APPROVAL BY THE AUTHORITY'S BOARD OF DIRECTORS OF INCREASES IN THE VALUE OF INVESTED CAPITAL; AND

2) ALLOWING DEALINGS IN FREE CURRENCIES, IN SECURITIES PAID IN FREE CURRENCIES AND ISSUED BY INVESTMENT PROJECTS IN THE EGYPTIAN STOCK MARKET, AND ALLOWING DIRECT REMITTANCE ABROAD OF PROCEEDS OF SALE.

E- OTHER FACILITIES:

AMONG OTHER THINGS, THESE INCLUDE:

- INVESTMENT PROJECTS WOULD BE EXEMPTED FROM NOTARY FEES.
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- QUARTERLY REPORTS, AT PRESENT REQUIRED BY ARTICLE 14, ON MOVEMENTS ON FOREIGN CURRENCY ACCOUNTS, OPENED BY PROJECTS WITH LOCAL BANKS, WOULD BE REPLACED BY ANNUAL REPORTS.

- ALSO PROPOSED IS A PROVISION FOR PREFERENTIAL TREATMENT FOR THOSE PROJECTS ESTABLISHED IN THE FREE ZONE, WHOSE PRODUCTS HAVE A 40 PERCENT LOCAL COMPONENTS CONTENT.

THE PROPOSAL WOULD PROVIDE FOR EITHER A 50 PERCENT REDUCTION OF CUSTOM DUTIES ACCRUING ON SUCH PRODUCTS OR LEVYING CUSTOM DUTIES ON THE VALUE OF THEIR FOREIGN COMPONENTS CONTENT ONLY.

- ALSO BEING CONSIDERED IS A PROPOSAL TO EXEMPT THE PROJECTS UNDER LAW NO. 43 FROM THE PROVISIONS OF ARTICLE 24 PARAGRAPH 2 OF LAW NO. 26 OF 1954 CONCERNING JOINT STOCK COMPANIES WHICH LIMITS THE MAXIMUM SALARIES OF MEMBERS OF THE BOARD OF DIRECTORS OF SUCH COMPANIES. UNQUOTE

3. WASHINGTON REACTION WOULD BE APPRECIATED ASAP. PLEASE ADVISE. IN MEANTIME EMBASSY IS PROVIDING EL SAYED VARIOUS MATERIALS ON SUBJECT PREVIOUSLY FURNISHED HIS PREDECESSOR.
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